IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.10769 OF 2004

Shri. Vijay D. Dhekale.
..Petitioner.

Vs.

The Divisional Controller, MSRTC, Kolhapur.
..Respondent.

Mr. V.C. Ghosalkar for Petitioner.

Mr. S.S. Hegade i/by G.S. Hegade & Associates for Respondent.

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CORAM : B.H. MARLAPALLE,J.
DATED : 11TH APRIL,2005.

P.C.:

1. The petitioner was employed under the respondent-Corporation and he was promoted as a Head Artisan in the year 1991. He was on leave from 1.5.1992 to 22.5.1992. He alleged that when he reported to his duty, he was informed regarding his reversion as Artisan-A vide reversion order dated 16.5.1992. He protested against the same and therefore, he left the workshop by taking leave and remained on leave after 28.8.1995. Charge-sheet dated 26.9.1994 was issued against him and on the

basis of the findings of the Enquiry Officer, he came to be dismissed from the service w.e.f. 28.8.1995. The said order of dismissal has been challenged in complaint (ULP) No.273 of 1995.

2. In the said complaint, preliminary issue regarding the enquiry being fair and proper came to be decided in favour of the employer by the Labour Court vide its order dated 30.4.2004. The petitioner challenged the said order in Revision Application (ULP) No.24/2004 which has been rejected by the Industrial Court at Kolhapur by its order dated 8.10.2004 and hence, this petition.

3. The Industrial Court referred to the decision in the case of Maharashtra State Road Transport Corporation Vs. Shri. Nanuram Verma and others reported in 2001 LAB IC Page 1525 and held that the revision was not maintainable on the ground that it was against the inter locutory order. The view taken by the Industrial Court not to entertain the revision application against the inter locutory order is not erroneous but at the same time it cannot be held that the challenge by the petitioner on the findings recorded by the Labour Court regarding the domestic enquiry is finally concluded.

It is clarified that, in case the complaint filed by the petitioner is decided against him and in favour of the employer, he has the right to challenge the findings on the preliminary point as well alongwith the challenge on all other points.

4. Subject to the above clarifications, the petition is rejected summarily.

5. The trial of the complainant is expedited and it is directed that the same may be decided preferably within a period of six months from today if it is still pending.

(B.H.MARLAPALLE, J)